

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

223

**CRM-M No. 4783 of 2023
Date of Decision : 18.4.2023**

*Anant Ram**..... Petitioner**versus**State of Punjab**..... Respondent***CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Alok Mittal, Advocate, for the petitioner

Mr. Kunal Vinayak, AAG, Punjab

TRIBHUVAN DAHIYA J. (ORAL):

This is a petition under Section 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No.65 dated 15.9.2022 under Sections 451, 354-A, 354-D IPC read with Section 8 of POCSO Act (Section 509 IPC added later on) registered at Police Station Block Majri, District SAS Nagar.

2. The FIR was lodged on a statement of the victim, aged about seventeen years, that on 7.9.2022 during day time around 11:30 a.m., when her mother was away for some personal work, her father had gone for painting job and her brother was also out for some work, on finding her alone, her neighbour/ petitioner came to the house, entered her room and started obscene acts with her. When she resisted, he hugged her and stated that he shall pay her money if she would not disclose this to anybody. When he did not stop after refusal, she raised alarm. He fled away from the spot. She informed her mother about the incident. The petitioner was called by her mother and he apologized for the acts. This was recorded by her on mobile phone. Pen drive *qua* the same was presented to the police official.

3. Learned counsel for the petitioner contends that the petitioner is handicapped and has falsely implicated in the case. The complainant/victim herself has testified before the trial Court as PW-1. She has been declared hostile, as she was found suppressing truth *qua* the date of incident and name of the police official. The pen drive containing recording of the incident, was played before the trial Court and found empty. Trial of the case is going on and

the petitioner is in custody since 15.9.2022.

4. Learned State counsel, on instructions from ASI Pawan Kumar, does not dispute the facts submitted by learned counsel for the petitioner. He, however, opposes the grant of bail on the ground that trial of the case is going on, and the remaining fifteen witnesses will soon be examined. It is also submitted that victim was a minor, and provisions of the POCSO Act have been invoked.

5. The submissions made by learned counsel for the parties have been considered. Undisputedly, the victim herself has not supported the prosecution version. Details of the alleged incident were also not found recorded in the pen drive. In these circumstances, culpability of the petitioner is a matter of trial, which is likely to take some time, as fifteen more prosecution witnesses are still to be examined. The petitioner is in custody since 15.9.2022 and has no criminal antecedents. It is, therefore, deemed appropriate to release him on bail.

5. Accordingly, the petition is allowed. The petitioner is ordered to be released on bail to the satisfaction of the trial Court/Duty Magistrate concerned.

(TRIBHUVAN DAHIYA)
JUDGE

18.4.2023
Ashwani

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No